

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-025-00450R

Parcel No. 0406-386-004

Terri Sommer,
Appellant,

v.

Dallas County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 24, 2016. Terri Sommer was self-represented. Dallas County Attorney Wayne Reisetter is legal counsel for the Board of Review. Assessor Steve Helm represented it at hearing.

Sommer is the owner of a residential property located at 802 Walnut Avenue, Woodward, Iowa. The subject property is a one-story dwelling, built in 1966, with 1104 square feet of living area; a full, unfinished basement; and a 336 square-foot attached garage. The dwelling is listed in normal condition. The site is 0.33-acres.

The property's January 1, 2015, assessment was \$108,100. Sommer's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). Sommer also wrote comments in the error and downward change in value sections; however, they were essentially claims of over-assessment. The Board of Review granted the protest and changed the assessment to \$87,050, representing \$22,410 in land value and \$64,640 in dwelling value. Sommer then appealed to PAAB on her over-assessment claim. She asserts the property's correct value is \$40,000.

Findings of Fact

Sommer asserts her property has been over assessed since she purchased it for \$68,000 in 2003. According to the property record card, two transfers occurred in October 2003. One was a court-ordered sale (Code D18) based on the Iowa Department of Revenue *Sales Conditions Codes Effective 8/31/15*. The property was concurrently transferred without consideration to Sommer. (Code D38). Because the sale is very dated and was not a normal-arm's length transaction, we give it no consideration.

Sommer testified the city redirected groundwater across her property and caused flooding in her yard and basement. She reports the basement is totally unusable and the property should be reduced to reflect the diminished value. Sommer provided copies of her complaints filed with the Woodward City Council in 2014 and in 2015. She reported she obtained estimates to repair the basement foundation and correct the flooding problem. Sommer testified that Iowa Foundation estimated the cost to cure the problem would be \$17,670 and Midwest Basement estimated a cost of \$22,512 to repair the problem. Sommer also testified she had obtained a market analysis from realtor Angela Fisher of Century 21 Real Estate. She reported that Fisher opined an "as is" value of \$45,000 for the dwelling and a value of \$55,000 if it was decluttered and the basement repairs were completed. Sommer did not submit the estimates or market analysis documents as evidence. We were unable to review the compared properties Fisher used, the adjustments she made, or judge the reasonableness of her conclusions. Therefore, we give the market analysis no consideration.

Sommer identified three neighboring properties at 808, 807, and 810 Walnut Avenue. These properties sold between two and four years ago for sale prices of \$67,000, \$63,000, and \$63,000, respectively. Sommer believes these reflect the fair market value of her property as well. Because we have little information to determine if these properties are comparable and because the sales are dated, we give this evidence no consideration.

Dallas County Board of Review did not offer any testimony or evidence.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

Sommer asserts the subject property is overassessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Sommer offered three neighborhood sales she considered comparable to support her over-assessment claim. However, she only the addresses and sale prices, therefore we are unable to determine whether they are comparable to the subject property. Moreover, the sales were dated and unadjusted, making them unusable for a 2015 value. Sommer testified about a market analysis; however, did not offer it as evidence for our review and judge the reasonableness of the conclusions. Sommer

offered no other evidence of the subject's fair market value, such as an appraisal or recent sales of comparable properties adjusted for differences.


While we believe the basement water issues Sommer detailed would likely impact the subject's fair market value, there was insufficient evidence to demonstrate what that impact might be. Considering the record as a whole, we find the evidence did not show Sommer's property is over-assessed.

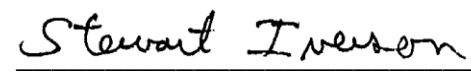
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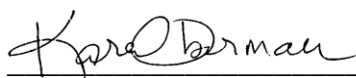
IT IS THEREFORE ORDERED that the Dallas County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 7th day of April, 2016.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:
Terri Sommer
Steve Helm